UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,082	12/28/2000	Anthony N. Sarra	10559/316001/P9677	3510

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U.P. PETER ENG
WILSON SONSINI GOODRICH AND ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA   94304

EXAMINER
LE, DIEU MINH T

ART UNIT	PAPER NUMBER
2184	

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Office Action Summary	09/753,082	SARRA ET AL.
	Examiner	**Art Unit**	
	Dieu-Minh Le	2184	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2003* .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6) ☐ Other: .

Part III   DETAILED ACTION

Specification

1.   Claims 1-30 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless -(b) the invention was patented
> or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of
> application for patent in the United States.

2.   Claims 1-3 and 14-16 are rejected under 35 U.S.C. § 102(b)

as being anticipated over Ananthanpillai (US Patent 5,333,308).

As per claim 1:

Ananthanpillai explicitly teaches:

- a method comprising:

- detecting a failure in a request for a file made by a

program running on a device [col. 5, lines 19-23, col. 6,

lines 21-42, and col. 8, lines 22-27];

- initiating a repair mechanism that is configured to

repair the failure [fig. 2-3, col. 1, lines 45-60].

This is clearly shown that Ananthanpillai's method and apparatus for operating a communication network monitor arrangement does illustrate, demonstrate, and teach capabilities corresponded to Applicant's invention.

As per claims 2-3:

Ananthanpillai explicitly teaches:

- a method comprising:

- monitoring for a failure in a request for a file made by the program running on the device [fig. 2, col. 6, lines 1-20];

- automatically performing the monitoring throughout the running of the program on the device [fig. 2-3, col. 1, lines 40-54 and co. 4, lines 29-32].

This is clearly shown that Ananthanpillai's method and apparatus for operating a communication network monitor arrangement does illustrate, demonstrate, and teach capabilities corresponded to Applicant's invention.

As per claims 14-16:

These claims are the same as per claims 1-3. The only minor different is that these claims are directed to a **machine-**

readable medium instead of the method for detecting and

repairing a failure as described in claims 1-13. However, it

would have been obvious to one having ordinary skill in the art

at the time the invention was made to realized that a **machine-**

readable medium is a necessary item for such communication

devices including remote device or client-server networking

system, more specifically, data communication or transmission

between client-server system. Since the data transmission or

client-server obviously needs a means for instruction or code

means resided within the machine-readable medium for performing

the data storing, receiving, detecting, tracking, monitoring,

repairing, restarting, and transmitting operation capabilities.

Therefore, these claims are also rejected under the same

rationale applied against claims 1-3.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not

identically disclosed or described as set forth in section 102

of this title, if the differences between the subject matter

sought to be patented and the prior art are such that the

subject matter as a whole would have been obvious at the time

the invention was made to a person having ordinary skill in the

art to which said subject matter pertains. Patentability shall

not be negatived by the manner in which the invention was made.

4.   This application currently names joint inventors. In

considering patentability of the claims under 35 U.S.C. 103(a),

the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered

therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to

point out the inventor and invention dates of each claim that

was not commonly owned at the time a later invention was made in

order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior

art under 35 U.S.C. 103(a).

5.   Claims 4-13, 17-30 are rejected under 35 U.S.C. § 103(a) as

being unpatentable over Ananthanpillai (US Patent 5,333,308) in

view of Calvert et al. (US Patent 5,349,674 hereafter referred

to as Calvert).

As per claim 4:

Ananthanpillai explicitly teaches:

- a method comprising:

- detecting a failure in a request for a file made by a

program running on a device [col. 5, lines 19-23, col. 6,

lines 21-42, and col. 8, lines 22-27];

- initiating a repair mechanism that is configured to

repair the failure [fig. 2-3, col. 1, lines 45-60].

Ananthanpillai does not explicitly teach:

- detecting from a location remote from the device.

However, Ananthanpillai does disclose capability of:

- method and apparatus for operating a communication

network monitor arrangement [abstract, col. 1, lines 40-63]

comprising:

- a connectivity among communication nodes (i.e., devices),

user end-workstations, network monitor, processor via a

public or private switching network   [fig. 1-2, col. 2,

lines 11-67];

- **first node, second node, third node (i.e., devices)**

communicated via a network environment (*i.e., remotely*

monitoring, detecting, and communicating) [fig. 1, col. 2

lines 22-53];

In addition, Calvert explicitly teaches:

- an automated enrollment of a computer system into a

service network of computer system [abstract, col. 1, lines

7-110;

comprising:

- **error detection from remote location [fig. 8A, col. 13,**

lines 1-62];

- **error detection, prevention, and correction [fig. 8A-B**

and 15, col. 18, lines 34-61];

- error fixing, solution logging and updating [fig. 18,

col. 20, lines 33-56].

Therefore, it would have been obvious to a person having

ordinary skill in the art at the time the invention was made

first, to realize the Ananthanpillai's method and apparatus for

operating a communication network monitor arrangement via a

connectivity among communication nodes (i.e., devices), user

end-workstations, network monitor, processor via a public or

private switching network, and more specifically via **first node,**

second node, third node (i.e., devices) communicated via a

network environment (i.e., remotely monitoring, detecting, and

communicating) as being detecting from a location remote from

the device as claimed by Applicant. Since the Ananthanpillai's

method and apparatus for operating a communication network

monitor arrangement does deal with the computer program error

detection and correction, more specifically computer application

program failure detection and repairing via a networking

environment (i.e., remotely failure detection). Ananthanpillai

clearly demonstrated the capability of application failure or

error detection, monitoring, and repairing from remotely as well

as locally networking arena in supporting the computer system

operation; second, one would modify the Ananthanpillai's method

and apparatus for operating a communication network monitor

arrangement to explicitly including the **error detection from**

remote location as well as error prevention, and correction

capabilities as taught by Calverts' automated enrollment of a

computer system into a service network of computer system in

supporting the computer program's error detection, repairing,

and correction methodology.

This modification would have been obvious because a person

having ordinary skill in the art would have been motivated to do

so to provide the computer application program error detection

and correction via a remotely networking with a mechanism to

enhance the computer program and application performance and processing in ordering to provide a continuity computer processing networking system functionality. It is further obvious because by utilizing this approach, the computer application program with error detection and correction capabilities can be realized in:

- first, any error, or failure occurred can be identified, detected, repaired, corrected via data processing monitoring, data transmission control, and correct data execution;

- second, the computer application program can operate with a high reliability and flexibility environment which will correctly provide optimum data availability and transmission throughput.

As per claims 5-8:

Ananthanpillai explicitly teaches:

- a method comprising:

- repairing the failure with the repair mechanism [fig. 2-3, col. 1, lines 45-60].

- restarting the program after the repair mechanism repair the failure [col. 4, lines 41-46 and col. 7, lines 2-14];

- user of the device can determine and initiate the repair mechanism [col. 5, lines 60-67].

In addition, Calvert explicitly teaches:

- an automated enrollment of a computer system into a

service network of computer system [abstract, col. 1, lines

7-110;

comprising:

- error detection from remote location [fig. 8A, col. 13,

lines 1-62];

- error detection, prevention, and correction [fig. 8A-B

and 15, col. 18, lines 34-61];

- **user response, determination, perceived problems** *(i.e.,*

user of the device can determine and initiate the repair

mechanism) **[fig. 10A, col. 13, lines 43-63].**

As per claims 9 and 12-13:

Ananthanpillai explicitly teaches:

- a method comprising:

- detecting a failure in a request for a file made by a

program running on a device [col. 5, lines 19-23, col. 6,

lines 21-42, and col. 8, lines 22-27];

- initiating a repair mechanism that is configured to

repair the failure [fig. 2-3, col. 1, lines 45-60].

Ananthanpillai does not explicitly teach:

- searching and transmitting a collection of data including

repair mechanism.

However, Ananthanpillai does disclose capability of:

- method and apparatus for operating a communication

network monitor arrangement [abstract, col. 1, lines 40-63]

comprising:

- a connectivity among communication nodes (i.e., devices),

user end-workstations, network monitor, processor via a

public or private switching network [fig. 1-2, col. 2,

lines 11-67];

- **a readily table for the user to add or modify entries in**

supporting the failure repair [col. 4, lines 32 through

col. 5, lines 29];

- **repair program can send system status message to user in**

supporting the failure detection and repair [col. 9, lines

18-33].

In addition, Calvert explicitly teaches:

- an automated enrollment of a computer system into a

service network of computer system [abstract, col. 1, lines

7-110;

comprising:

>   - error detection from remote location [fig. 8A, col. 13,
>
>   lines 1-62];
>
>   - error detection, prevention, and correction [fig. 8A-B
>
>   and 15, col. 18, lines 34-61];
>
>   - **error fixing, solution logging and updating [fig. 18,**
>
>   **col. 20, lines 32-56].**

Therefore, it would have been obvious to a person having

ordinary skill in the art at the time the invention was made

first, to realize the Ananthanpillai's method and apparatus for

operating a communication network monitor arrangement via a

connectivity among communication nodes (i.e., devices), user

end-workstations, network monitor, processor via a public or

private switching network, and more specifically **a readily table**

for the user to add or modify entries in supporting the failure

repair as well as repair program can send system status message

to user in supporting the failure detection and repair as being

searching and transmitting a collection of data including repair

mechanism as claimed by Applicant. Since the Ananthanpillai's

method and apparatus for operating a communication network

monitor arrangement does deal with the computer program error

detection and correction, more specifically computer application

program failure detection and repairing mechanism defined in table 203 as depicted in figure 2. Ananthanpillai clearly demonstrated the capability of application failure or error detection, monitoring, and repairing from defined in table 203 as depicted in figure 2 in supporting the computer system operation; second, one would modify the Ananthanpillai's method and apparatus for operating a communication network monitor arrangement to explicitly including the **error fixing, solution logging and updating capability** as taught by Calverts' automated enrollment of a computer system into a service network of computer system in supporting the computer program's error detection, repairing, and correction methodology for the same reasons set forth as described in claim 4, **supra.**

As per claims 10-11:

Ananthanpillai explicitly teaches:

- a method comprising:

- notifying whether the repair mechanism successfully repaired the failure [col. 5, lines 24-29, col. 7, lines 33-38, and col. 8, lines 55-67].

- recording the detected failure [col. 4, lines 47-67];

- user of the device can determine and initiate the repair mechanism [col. 5, lines 60-67].

Ananthanpillai does not explicitly teach:

- a location remotely from device and collection of data.

However, Ananthanpillai does disclose capability of:

- method and apparatus for operating a communication

network monitor arrangement [abstract, col. 1, lines 40-63]

comprising:

- **first node, second node, third node (i.e., devices)**

communicated via a network environment (*i.e., remotely*

monitoring, detecting, and communicating) [fig. 1, col. 2

lines 22-53];

- **a readily table for the user to add or modify entries in**

supporting the failure repair [col. 4, lines 32 through

col. 5, lines 29];

- **repair program can send system status message to user in**

supporting the failure detection and repair [col. 9, lines

18-33].

In addition, Calvert explicitly teaches:

- an automated enrollment of a computer system into a

service network of computer system [abstract, col. 1, lines

7-110;

comprising:

- error detection from remote location [fig. 8A, col. 13,

lines 1-62];

- error detection, prevention, and correction [fig. 8A-B

and 15, col. 18, lines 34-61];

- **error fixing, solution logging and updating [fig. 18,**

col. 20, lines 32-56].

Therefore, it would have been obvious to a person having

ordinary skill in the art at the time the invention was made to

realize the combination of Ananthanpillai's method and apparatus

for operating a communication network monitor arrangement via a

connectivity among communication nodes (i.e., devices), user

end-workstations, network monitor, processor via a public or

private switching network, and more specifically **first node,**

second node, third node (i.e., devices) communicated via a

network environment *(i.e., remotely monitoring, detecting, and*

communicating), **a readily table for the user to add or modify**

entries in supporting the failure repair as well as repair

program can send system status message to user in supporting the

failure detection and repair and Calverts' automated enrollment

of a computer system into a service network of computer system

including **error fixing, solution logging and updating capability**

do teach the computer program's error detection, repairing, and correction methodology for the same reasons set forth as described in claim 4, **supra.**

As per claims 17-22:

These claims are the same as per claims 4-13. The only minor different is that these claims are directed to a **machine-readable medium** instead of the method for detecting and repairing a failure as described in claims 4-13. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to realized that a **machine-readable medium** is a necessary item for such communication devices including remote device or client-server networking system, more specifically, data communication or transmission between client-server system. Since the data transmission or client-server obviously needs a means for instruction or code means resided within the machine-readable medium for performing the data storing, receiving, detecting, tracking, monitoring, repairing, restarting, and transmitting operation capabilities. Therefore, these claims are also rejected under the same rationale applied against claims 4-13.

As per claims 23-25:

Ananthanpillai explicitly teaches:

- a system comprising:

- detecting a failure in a request for a file made by a program running on a device [col. 5, lines 19-23, col. 6, lines 21-42, and col. 8, lines 22-27];

- initiating a repair mechanism that is configured to repair the failure [fig. 2-3, col. 1, lines 45-60].

Ananthanpillai does not explicitly teach:

- first, second, and third device configured to run, configured, and track failure.

However, Ananthanpillai does disclose capability of:

- method and apparatus for operating a communication network monitor arrangement [abstract, col. 1, lines 40-63] comprising:

- a connectivity among communication nodes (i.e., devices), user end-workstations, network monitor, processor via a public or private switching network [fig. 1-2, col. 2, lines 11-67];

- **first node, second node, third node (i.e., devices) communicated via a network environment** (*i.e., remotely monitoring, detecting, and communicating)* [fig. 1, col. 2

lines 22-53] used to detecting, monitoring, and executing

failures [col. 1, lines 40-63].

In addition, Calvert explicitly teaches:

- an automated enrollment of a computer system into a

service network of computer system [abstract, col. 1, lines

7-10];

comprising:

- **error detection from remote location [fig. 8A, col. 13,**

lines 1-62];

- **error detection, prevention, and correction [fig. 8A-B**

and 15, col. 18, lines 34-61];

- error fixing, solution logging and updating [fig. 18,

col. 20, lines 33-56].

Therefore, it would have been obvious to a person having

ordinary skill in the art at the time the invention was made

first, to realize the Ananthanpillai's method and apparatus for

operating a communication network monitor arrangement via a

connectivity among communication nodes (i.e., devices), user

end-workstations, network monitor, processor via a public or

private switching network, and more specifically via **first node,**

second node, third node (i.e., devices) communicated via a

network environment *(i.e., remotely monitoring, detecting, and
communicating)* [fig. 1, col. 2 lines 22-53] used to detecting,
monitoring, and executing failures [col. 1, lines 40-63] as
being first, second, and third device configured to run,
configured, and track failure as claimed by Applicant. Since the
Ananthanpillai's method and apparatus for operating a
communication network monitor arrangement does deal with the
computer program error detection and correction, more
specifically computer application program failure detection and
repairing via a multiple nodes or devices communicated over a
networking environment. Ananthanpillai clearly demonstrated the
capability of application failure or error detection,
monitoring, and repairing from first, second, and third nodes or
locations in ordering to provide a data transmission free of
errors; second, one would modify the Ananthanpillai's method and
apparatus for operating a communication network monitor
arrangement to explicitly including the **error detection from
remote location as well as error prevention, and correction
capabilities** as taught by Calverts' automated enrollment of a
computer system into a service network of computer system in
supporting the computer program's error detection, repairing,
and correction methodology.

This modification would have been obvious because a person

having ordinary skill in the art would have been motivated to do

so to provide the computer application program error detection

and correction via a remotely networking with a mechanism to

enhance the computer program and application performance and

processing in ordering to provide a continuity computer

processing networking system functionality.

As per claims 26-30:

Due to the similarity of claims 26-30 to claims 4-13 except

for a system for detecting and repairing a failure capabilities

(i.e., detecting a failure, repairing a failure, etc…) instead

of a method for detecting and repairing a failure steps (i.e.,

detecting a failure step, repairing a failure step, etc…);

therefore, these claims are also rejected under the same

rationale applied against claims 4-13. **In addition, all of the**

limitations have been noted in the rejection as per claims 4-13.

Conclusion

6.   The prior art made of record and not relied upon is

considered pertinent to applicant's disclosure.

7.   A shortened statutory period for response to this action is

set to expired THREE (3) months, ZERO days from the date of this

letter.   Failure to respond within the period for response will

cause the application to be abandoned. 35 U.S.C. 133.

8.   Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Dieu-Minh
Le whose telephone number is (703) 305-9408. The examiner can
normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM.
The examiner can also be reached on alternate Fridays.
        If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, Robert Beausoliel, can
be reached on (703)305-9713. The fax phone number for this
Group is (703)746-7240.

Any inquiry of a general nature or relating to the status

of this application should be directed to the Group receptionist

whose telephone number is (703) 305-3900.
        Any response to this action should be mailed to:
                Commissioner of Patents and Trademarks
                Washington, D.C. 20231
        or faxed to:
                (703) 746-7239, (for formal communications
                intended for entry)
        Or:

(703) 746-7240 (for informal or draft
communications, please label "PROPOSED" or
"DRAFT")

Hand-delivered responses should be brought to Crystal
Park II, 2121 Crystal Drive, Arlington. VA., Sixth
Floor (Receptionist).

DIEU-MINH THAI LE
PRIMARY EXAMINER
ART UNIT 2184

DML
8/20/03